Record of Proceedings

of the

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

Court House of the Tribunal
War Ministry Building
Tokyo, Japan

The United States of America, the Republic of China, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, the Commonwealth of Australia, Canada, the Republic of France, the Kingdom of the Netherlands, New Zealand, India, and the Commonwealth of the Philippines

-Against-

ARAKI, Sadao; DOHIHARA, Kenji; HASHIMOTO, Kingoro; HATA, Shunroku; HIRANUMA, Kiichiro; HIROTA, Koki; HOSHINO, Naoki; ITAGAKI, Seishiro; KAYA, Okinori; KIDO, Koichi; KIMURA, Heitaro; KOISO, Kuniaki; MATSUI, Iwane; MATSUOKA, Yosuke; MINAMI, Jiro; MUTO, Akira; NAGANO, Osami; OKA, Takasumi; OKAWA, Shumei; OSHIMA, Hiroshi; SATO, Kenryo; SHIGEMITSU, Mamoru; SHIMADA, Shigetaro; SHIRATORI, Toshio; SUZUKI, Teiichi; TOGO, Shigenori TOJO, Hideki; UMEZU, Youshijiro;

-Accused-

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Of

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Of

EXHIBITS

Doc. No.	Pros. No.	Def. No.	Description	For Ident.	In Evidence
2669A		1226	Extracts from Diary by SHIRAO, Tateki dated 29 November 1946		10,604
1420	1227		Affidavit of FREDERICK CHARLES PARR, Dated 27 March 1946		10,608
1421	1228		Affidavit of EDWARD AUSTIN IRWIN CROWDER dated 6 April 1946		10,613
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Of

EXHIBITS

(Continued)

Doc. No.	Pros No.	Def. No.	Description	For Ident.	In Evidence
1500	1231		Affidavit of SIR ORME GARTON SARGENT, Under-Secretary of State for Foreign Affairs, dated 25 March 1946		10,621
220-H	1232		Extract from papers relating to Foreign Relations of United States. Japan; 1931 - 1941 "Memorandum of a conversation" dated 7 December 1941		10,626
1424	1233		Affidavit of HONORABLE JAMES F. BYRNES, Secretary of State, dated 6 April 1946		10,630
2543	1234		Affidavit of TATENO, Morio dated 24 July 1946		10,636
1633	1235		Phonograph record of broadcast made by TATENO, Morio made on 8 December 1941		10,639
1633-A	1235-A		Transcription of the wording of the last exhibit 1235		10,639
1657	1235-B		Official log of Broadcasting section division, news section of Radio Tokyo		10,640
1657-A	1235-C		Log of Radio News Broadcast given on 8 December 1941 (Japanese time) Japanese Broadcasting Syston		10,640

Friday, 15 November, 1946

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INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Court House of the Tribunal
War Ministry Building
Tokyo, Japan

The Tribunal met, pursuant to adjournment, at 0930.

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Appearances:

For the Tribunal, same as before with the exception of the HONORABLE R. B. PAL, Member from India, not sitting.

For the Prosecution Section, same as before.

For the Defense Section, same as before.

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(English to Japanese and Japanese to English interpretation was made by the Language Section, IMTFE.)

Morse & Abram

MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now in session.

THE PRESIDENT: All the accused are present except OKAWA and SHIGEMITSU. We have a certificate from the Prison Surgeon of Sugamo Prison certifying that the accused SHIGEMITSU is ill and unable to attend the trial today. The certificate will be recorded and filed.

Will Mr. Fihelly come to the lecturn, please?

Mr. Fihelly, the "Stars & Stripes" reports you today as stating that the accused TOJO had made certain admissions. Sometime ago we pointed out that such statements should not be made to the newspapers if they amounted to telling the press what evidence was about to be given by the prosecution or by the defense. We don't know whether the statement you made to the newspapers -- if you did make it -- falls within that category. We would like to hear from you. You may not have known of the statement made from this Tribunal about that matter. The Tribunal's statement did not appear in the "Stars & Stripes" or in the "Nippon Times." You may not have been in court when it was made and you may not have known it had been made.

MR. FIHELLY: Mr. President and Members of

the Tribunal, I read the article in the "Stars & Stripes" this morning and I was as surprised about it as probably you were to read it.

THE PRESIDENT: We will accept your statement, Mr. Fihelly. We do not want to hear any more, but we regret that such articles are published. We resent them. They show an utter disregard for the dignity of this Tribunal.

MR. FIHELLY: I would like to say, Mr. President and Members of the Tribunal, just as one terse statement, I gave no interview to the press.

THE PRESIDENT: Dr. KIYOSE.

DR. KIYOSE: I wish to continue my cross-examination.

T A T E K I S H I R A O, called as a witness on behalf of the prosecution, resumed the stand and testified, through Japanese interpreters, as follows:

CROSS-EXAMINATION

BY DR. KIYOSE: (Continued)

Q. Towards the end of the session yesterday you stated that you received orders to hold back the message. By this did you mean that you received orders from the General Staff or from some other branch of the military?

A. I received orders from the General Staff.

Q. In your affidavit you mention TOMURA, Morio who was posted in the General Staff. That appears in the third paragraph of the first page of your affidavit. This TOMURA was the man who requested you about the telegram. On page 2 in the first sentence it is specifically said that he was a member of the War Ministry.

THE MONITOR: "First sentence" should read "first line."

Q. (Continued) Was this mention of War Ministry an error, then?

A. Yes, it is an error.

Q. Then, as TOMURA said, in delaying the foreign telegram you received orders from the chief

of the section controlling foreign telegrams or wireless messages in general, Tele-Communication Bureau Bureau of the Communications Ministry. Were you later ordered, either by the Chief of the Tele-Communications Bureau of the Communication Ministry, or the Chief of the Foreign Cable Section of the same ministry, to hold those telegrams, or did they approve of your action?

A Concerning the treatment of foreign cables, either myself or the Chief of the Foreign Cable Department received the request from the army and we received orders from nowhere else.

Q I wish to ask another question. I refer specifically to page 1, last line of the English text, wherein you state that it may have been possible that the President Roosevelt's message to the Emperor was carried away or taken back to the office of Chief of the General Staff, or the Chief of the Naval Staff, by either the Chief of the General Staff or the Chief of the Naval Staff. Are you certain that someone, either from the army or navy, Army General Staff or the Navy General Staff, took away that message?

THE MONITOR: Correction. "Last line, page 1," should read "last part, page 1."

A I don't remember exactly whether that telegram, that is, the message of President Roosevelt, was taken away or not. However, telegrams of such nature were to be handed over either to the army or to the navy, therefore I presume that Mr. Roosevelt's message had been included among the telegrams sent over to them.

Q Further elucidation, I ask you then you didn't see anyone taking away the telegram, nor did you hand over the telegram yourself.

A Just as you say.

Q One more question, then. Then I wish to ask you specifically; now you said that according to TOMURA the message from Roosevelt to the Emperor was --

THE MONITOR: Correction, please. You state in your affidavit that you heard something about Roosevelt's message from TOMURA. Are you sure ot this?

A Concerning this point, the only thing I can say is that that is what I thought and I am not sure of it.

THE PRESIDENT: Do you recollect what you said in your affidavit about that? In case you have forgotten, I will remind you. In your affidavit you say this: "I do know, however, as I have already

A I don't remember exactly whether that telegram, that is, the message of President Roosevelt, was taken away or not. However, telegrams of such nature were to be handed over either to the army or to the navy, therefore I presume that Mr. Roosevelt's message had been included among the telegrams sent over to them.

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THE MONITOR: Correction, please. You state in your affidavit that you heard something about Roosevelt's message from TOMURA. Are you sure ot this?

A Concerning this point, the only thing I can say is that that is what I thought and I am not sure of it.

THE PRESIDENT: Do you recollect what you said in your affidavit about that? In case you have forgotten, I will remind you. In your affidavit you say this: "I do know, however, as I have already

explained, that Colonel TOMURA of the War Ministry was telling me the contents of the telegram probably by 4:00 o'clock and certainly by 6:00 o'clock that evening." Have you any explanation of that?

A I tried to remember -- I tried hard to remember what happened at that time. However, I couldn't remember; my memory was foggy and I couldn't remember exactly what happened, therefore I put down that I may have heard it from Colonel TOMURA.

Q As for delaying the message, had you received previous request to do so? Did you get an order to delay the telegram before the 7th? You did get the order to delay the telegram before the 7th, didn't you? The fact that further request for delaying the message was made on December 7th, does this mean that at that time a message was expected from President Roosevelt, or was it due to the fact that censorship became more rigid at that time?

A I wouldn't be able to say anything about that point.

Q You say in your affidavit that on the 8th both MURAKAMI and TOMURA visited you. Is that a fact?

A If I remember correctly, I believe two men came from the army on that day, on the 8th, and I believe one of them -- I thought that one of them was

Lieutenant Colonel MURAKAMI and the other Lieutenant Colonel TOMURA. However, as to their exact identity I am not sure now.

DR. KIYOSE: I conclude my cross-examination.

THE PRESIDENT: Witness, in your affidavit you say the following: "On December 6th my orders from Colonel TOMURA as to the delay in telegrams was varied and, in future, I was told to delay the delivery by five hours and ten hours on alternate days." Was December 7th a five hour or a ten hour day?

THE WITNESS: I don't recall exactly concerning that point.

THE PRESIDENT: Well you may not recall exactly. What do you think?

THE WITNESS: I believe it may have been a ten hour day.

THE PRESIDENT: Captain Brooks.

CROSS-EXAMINATION (Continued)

BY MR. BROOKS:

Q Mr. Witness, in testifying by way of affidavit, on page 2 of exhibit 1225, the next to the last paragraph, you say you kept a diary and after refreshing your memory from this diary you made this present affidavit. On the 7th of December, as is

shown in document No. 2669-A of the prosecution, which is the next one they have on their list for introduction, is an extract from your diary.

Wolf & Duda

BRIGADIER NOLAN: Mr. President, it was not the intention of the prosecution to introduce 2669A as their document, or at all.

MR. BROOKS: I am sorry, your Honor, if I misunderstood their intentions. I have it on my list as the next one and I was going to refer to a remark of the 7th of December in relation to his knowledge of President Roosevelt's message as in direct contradiction of what he said in his affidavit.

THE PRESIDENT: But he says in his affidavit that he bases his statements on his diary.

MR. BROOKS: That is right.

THE PRESIDENT: I was going to suggest, in view of that, that he produce his diary.

MR. BROOKS: I was coming to that, your Honor. I had that in mind for purposes of impeachment.

BRIGADIER NOLAN: Mr. President, the diary is not here. Certain entries from it have been processed. The prosecution has no objection to the diary or to any part of it being used for the prosecution for any purpose they see fit.

THE PRESIDENT: Brigadier Nolan.

BRIGADIER NOLAN: The last word, sir, should have been "for the defense"-- should have been "defense" not "prosecution."

MR. BROOKS: If the Tribunal please, the prosecution has the document No. 2669A before them and I would like for it to be -- it is an extract from the diary of SHIRAO, Tateki, the witness on the stand -- and I would like for him to place that before the Court now in evidence. I would like to have it placed before the Court in evidence.

THE PRESIDENT: Cross-examine on it.

BY MR. BROOKS (Continued):

Q Now, Mr. witness, in your diary, on the document previously referred to as 2669A, on the 7th of December you make the statement that "the situation apparently has become most difficult as it has been reported that President Roosevelt high-handedly sent a personal message to his Majesty," etc.

Now, you said in the affidavit that you knew the contents of this message. I want to ask you; did you ever see this message, actually?

A No.

Q How then did you learn of its contents and when?

A As I said before, my memory concerning that point is foggy. By my diary -- according to entries in my diary -- I heard it sometime in the afternoon of the 7th of December from somewhere, but as to the

place from where I heard the news, I am not sure. Therefore, I can suppose that I either heard it from Lieutenant Colonel TOMURA or from press telegrams.

Q Was there a radio in the office where you worked that afternoon?

A No, there was no radio.

Q Did you hear of any news broadcast on that afternoon of such a message of the President's?

A No, I didn't hear it over the radio.

Q Did you know that it was broadcast over the radio that afternoon?

A I don't know whether it was broadcast or not.

Q At the time that you gained this knowledge as to the message, do you or do you not know where the message itself was? Was it still in your office?

A I didn't know about the whereabouts of that telegram at that time.

Q In fact, did you ever pay any particular attention to this particular message?

A As I did not expect to receive such an incoming message, I did not pay any attention to it.

Q Now, in your diary of the 29th of November, Showa 16, "After returning home in the evening I talked over the telephone with Major TOMURA about the measures to delay foreign telegrams and gave instructions

to the central telegraph office accordingly." You recall that.

Now, on November the 29th in your affidavit you say this was based on security reasons -- these orders that were given for delay. What were the security reasons, if you know, and why was it necessary for those to be placed in affect at that time? I would like a report on it.

A I only received the order to delay the telegrams; for what reason I don't know.

Q Well, now, in your affidavit: Paragraph 3. "My friend Lieutenant Colonel TOMURA" -- skipping down to where he says, starts --"told me that for security reasons all foreign telegrams were to be delayed."

At that time in Paragraph 2 of your affidavit you were in charge of the Department of Censorship. Now, do you mean to tell me that you do not know what the security measures were about messages?

A (No response.)

Q Well, did you know anything about the security measures at that time or not?

A (No response.)

Q Do you understand my question?

A The purport of your question is not clear to me.

Q As the one in charge of the Department of Censorship you were dealing with certain orders based upon security measures to be taken for the protection of information, were you not?

A The duties of the Censorship Division were to prevent secrets from leaking out and also to prevent espionage activities.

Q All right. Then, that was part of the security, and one of the reasons for delaying delivery; is that correct?

A When telegrams are delayed censorship can be--we can censor them that much more thoroughly, and in that sense it would mean a stricter enforcement of censorship.

Q Now, this rule that was put in effect at that time was not an unusual rule, was it, or a special application for any particular reason?

A I believe it is only a common practice in making stricter control, enforcing stricter control over tele-communication.

THE MONITOR: "Control" should be "censorship."

THE PRESIDENT: The delay of five hours ordered on the 29th of November 1944 was not a common practice, was it?

1941, I should say.

THE WITNESS: I don't quite understand your question. Will you repeat it again?

MR. BROOKS: I will ask him.

THE PRESIDENT: Can you recollect any other occasion in 1941 when a delay of five hours was ordered in relation to messages from abroad?

THE WITNESS: No.

THE PRESIDENT: Was the delay of ten hours ordered on the 6th of December 1941 for alternate days a common practice?

MR. BROOKS: If the Court please, I would like to call to the Court's attention this order applied to all, and I have not been trying to show that that was a common practice but that previous to that time there had been censorship of some -- not all, but some -- and that some was a normal procedure.

THE WITNESS: There was no such measures taken before that date.

Q Was there any censorship of any type before November 29, any system of spot-checking?

A The censorship of telegrams and telephone conversations was begun in July of that year and was continued thereafter until November, when these special measures were taken.

THE MONITOR: "Until the end of November."

Q Now, in the last paragraph on page 1 you state it was the custom of the Foreign Office to send a messenger once a day to take away copies of telegrams in code which they thought might interest them. When did this custom start; what month, what year?

A This practice was begun several years ago but I cannot remember the exact year since it was

before my entry into the Communication Ministry, several years prior to that year.

THE PRESIDENT: Have you finished cross-examining on the excerpt from his diary for the 7th of December, Mr. Brooks?

MR. BROOKS: No, I have not, your Honor.

THE PRESIDENT: We require you to tender it as soon as you have done so.

Q This practice started several years ago, and yet you say that censorship was only placed on telegrams, and so forth, from July, is that correct?

A Yes, it is correct.

Q Then, I gather from that statement that censorship had been going on actually for years, by taking away copies of messages?

A I don't think it is possible to call it censorship as far as the Ministry of Communications is concerned.

Q In other words, the difference lies in that there was no delay of the message, is that correct?

A I do not think so.

Q And at this time it became necessary to delay messages because of the critical period needed to decode them and find out what was going on, is that correct? And if a message contained any information

of a military nature it would be stopped and not be allowed to be sent, is that correct?

THE PRESIDENT: How does that bear on President Roosevelt's message to the Emperor?

MR. BROOKS: Just to show that it was not a deliberate plan to delay any messages to the Emperor or any movement of any body or group trying to act in any way to intercept, for a specific purpose, any of the information being carried on between the two nations.

THE PRESIDENT: Well, all that is irrelevant. We are dealing with the treatment of the President's message to the Emperor and the reasons for that treatment. The treatment of other messages is wholly immaterial and irrelevant.

MR. BROOKS: The prosecution, if your Honor please, is trying to place, through this witness in this affidavit, stress upon the fact, I think and I have been led to believe, that this message was given a special treatment. And in my position, I think the cross-examination has shown it was treated just the same as any other message, and he as such did not have any knowledge of it as a special item.

THE PRESIDENT: In order to enable certain members of the staff to meet the requirements of the

War Office, we will adjourn now until half past one.

(Whereupon, at 1030, a recess was taken.)

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Greenberg & Barton

AFTERNOON SESSION

The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

THE PRESIDENT: Mr. Logan.

MR. LOGAN: If the Tribunal please, on November 12, 1946 an order was issued with respect to security measures to be enforced at Sugamo Prison and affecting the accused in this case. While we have no desire whatsoever to interfere or to make any recommendations respecting security measures, we do wish to call the Tribunal's attention to the fact that part of the measures taken appear to us to be unreasonable and closely connected with a fair trial to the accused.

From time to time we attorneys submit to the accused documents affecting them for their opinions and consideration. It is our understanding that all of the documents of the accused, with the exception of six books, booklets or pamphlets, have been taken from them and put in a box away from their cell so that they do not have free access to them. When they desire a document, it is necessary to call one of the

jailers to secure the document, and they have difficulty in describing it, and in some instances they are unable to obtain the document they require. Of course, any measure that is taken which would interfere with the close cooperation between the attorney and his client in so far as the client is unable to secure the document would affect a just trial.

In addition, the accused wish that the order be relaxed with respect to certain articles of clothing, bedding and personal effects which they consider desirable and necessary from the standpoint of sanitation and personal health. I again wish to impress upon the Tribunal that we of the defense do not wish in any manner to interfere with proper security measures to be taken, but we ask that they be reasonable, fair and in no way tend to defeat the ends of justice in so far as this trial is concerned.

As every minute of preparation for the trial counts, we certainly would appreciate if the Tribunal would give this matter its prompt attention.

THE PRESIDENT: Dr. UZAWA.

DR. UZAWA: Mr. President and Members of the Tribunal, as representative of the Japanese counsel, may I be permitted to make one request? As Mr.

Logan has said, we wish in no way to interfere with measures concerning the rules of the prison. As, Mr. President, you stated at the beginning of this trial, this trial is not held for the purpose of judging a Verrus or a Hastings, but the honorable Members of this Tribunal have come here in order to give fair and impartial judgment as representatives of the victor nations in order to insure future peace and righteousness for all, and to set out a fair trial based on justice. The defense counsel and the accused, being of the defeated side which has surrendered, respectfully obey all the orders of the Tribunal, and it is their earnest hope that this trial will be concluded in accordance with a world-wide concept of justice.

Therefore, in connection with the accused who are in prison, may I request that steps be taken so that, while they obey the regulations of the prison, at the same time they may, according to their conscience, make preparations for their trial. Although, of course, I do not know how these trials will be concluded, the accused will continue to obey the regulations of the prison; and I hope, therefore, that no measures that are unreasonable will be taken. I conclude my request. The rest is

as Mr. Logan has said.

THE PRESIDENT: Major Furness.

MR. FURNESS: If the Court please, I would like to stress briefly the fact that some of these measures with respect to clothing, bedding, and so forth, affect vitally the health of these men who are on trial.

THE PRESIDENT: This Court has no responsibility for security measures and will not interfere with those who have responsibility for them. We assume that those responsible will not do anything to prejudice the fair trial of the accused.

After reading what counsel for the defense have had to say this afternoon, we will see that what counsel said is brought to their knowledge, and they may give you the measure of relief that you are seeking, if it is called for.

MR. FURNESS: My point is that it does affect the fairness of the trial, sir. That is the only point we are trying to make.

MR. BROOKS: Mr. President, Members of the Tribunal.

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T A T E K I S H I R A O, called as a witness on behalf of the prosecution, resumed the stand and testified through Japanese interpreters as follows:

CROSS-EXAMINATION

BY MR. BROOKS (Continued):

Q Mr. Witness, did you receive any special order in regard to President Roosevelt's message to make a special effort to withhold it or delay it?

A No, I never received a special order.

Q Now, referring to prosecution document No. 2669-A, on the 8th of December -- words extracted from your diary -- at about 4:30 or 4:50 -- it is hard to decipher -- a.m. "I was called to the telephone by Foreign Telegram Section Chief NAKAYAMA who told me that a request had been received from the Army to stop all telegraphic communication with foreign countries." Continuing the quotation: "Hence, I immediately took the proper steps and hastened to my office. Lieutenant Colonel MURAKAMI came and informed me of the outbreak of war against America and Britain. We discussed practical measures for control of communications, and immediately began to put them into effect."

Now, Mr. Witness, had any of these war

measures for security been in effect previous to that date?

A As I have already said, security measures were begun in July of that year; and, therefore, secruity measures with regard to communications were enforced from that time in order to prevent leakage of telegrams.

Q That the practical measures for control of communications in a war situation were not begun until the 8th of December, is that correct?

THE PRESIDENT: He mentioned July previously.

A Yes.

Q Now, on exhibit 1225, at the bottom paragraph you state that "December 7th was a day of great excitement." Was that Tokyo time?

A Yes.

Q What was the great excitement of December 7 that required messengers in and out all day?

A That day was not -- I was not in a state of great excitement on that day.

Q Then your affidavit is incorrect, is that right?

A I believe it is somewhat exaggerated.

Q Now, in the paragraph just preceding that you state,"I cannot remember, for certain, who told

me, but I think it was Colonel TOMURA." And then in the paragraph below you state, "I do know, however, as I have already explained, that Colonel TOMURA of the War Ministry was telling me the contents of the telegram probably by four o'clock." That is a direct contradiction, Mr. Witness. Which one of those statements is correct?

A As I have already said, I had no clear recollection concerning whether or not it was Lieutenant Colonel TOMURA who told me, and, therefore, I believe that the previous statement, the one in which I say I am not sure, is correct.

THE MONITOR: Slight correction: Therefore, when I say "I am sure," that is not correct. I should have said "I am not sure."

Q Now, do you have in your possession your diary referred to in this affidavit?

A No. I have presented it. It is with the Tribunal.

MR. BROOKS: I have just been informed that the prosecution does have the original diary.

THE PRESIDENT: It is not in evidence yet.

Q I notice on the 7th of December in an extract from your diary, at the end of that day you said you had collected the material for tomorrow's

extra lecture. Was that on security measures? What was the subject of the lecture?

A They are the text of lectures to be given at school, and they have nothing to do with this question here.

THE MONITOR: They were.

Q What kind of a school?

A It is a school belonging to the Communications Ministry named "The Training Institute for Officials of the Communications Ministry."

Q This lecture had nothing to do with any orders received or emergency measures to be taken, did it?

A They had no connection.

Q You say that, in your affidavit in the third paragraph, Lieutenant Colonel TOMURA called you and told you about the delay in foreign telegrams. Was that an order or a request that he made?

A It was not an order but a request.

MR. BROOKS: If the Tribunal please, if the prosecution would be so kind as to furnish me a copy of this document 2669-A, I would like to offer it in evidence for the purpose of impeachment.

THE PRESIDENT: Admitted on the usual terms.

MR. BROOKS: Since most of the relevant

matters therein have been referred to in my cross-examination, I will not read that.

CLERK OF THE COURT: Document No. 2669-A, issued by the prosecution and introduced by the defense, will be given exhibit No. 1226.

(Whereupon, the document above referred to was marked defense exhibit No. 1226 and received in evidence.)

THE PRESIDENT: Major Furness.

CROSS-EXAMINATION (Continued)

BY MR. FURNESS:

Q As I understand it, you heard of this message some time between four and six in the afternoon, is that correct?

A I believe that on the whole it was around that time.

Q When you heard of it, did you make any inquiry as to whether it had come into your department?

A That telegram didn't come to me at that time.

Q All such messages by telegram or cable from abroad must necessarily come through your department, must they not, at that time?

A The telegram itself does not come to my

office but to the Communications Ministry. Only the copies came there, and from there we would send it to the War Ministry, the Navy Ministry and the Foreign Affairs Ministry.

Q But, did you have authority to delay the delivery of the telegram?

A Following the request of the Army, I sent an order to the Telecommunications Bureau to do so.

Q Well, then, did you consult your superiors or anyone else when you found that that message had come to Tokyo to decide whether the delivery of such an important message should be held up in accordance with the general orders?

A Since I did not know about this so-called message itself, I could not consult with my superiors about whether to delay it or not.

Q But you testified that you had heard from someone that such a message, which must necessarily come by cable and, therefore, be such to such orders, had been received in Tokyo; is that correct?

A I did hear from somewhere that the message had come, but I did not think of that. I did not couple the fact that it had come with the question of whether to delay it or not, in my mind.

Q Then, allowing it to follow that general

course, wanting it to be delivered specially because of its important nature, was your responsibility alone; isn't that correct?

A If you say it was my responsibility, you can say so. But, since I was simply mechanically following out a request from the Army, I believe it is a question whether I should bear sole responsibility or not.

Q Your following out was due to a general order applying to all telegrams from abroad, is that correct?

A Yes.

Q Which you had at the request of a Lieutenant Colonel on the General Staff?

A Yes.

THE PRESIDENT: Copies of that last exhibit should be made for the Judges. Do you propose to call Colonel TOMURA, Brigadier, if he is available? A colleague desires to know that.

BRIGADIER NOLAN: We don't know the whereabouts of that officer, but I will make inquiries at once.

THE PRESIDENT: He may or may not be prepared to help you. We have that in mind.

BRIGADIER NOLAN: Copies of the last exhibit, Mr. President, are now available for the Court.

We now offer in evidence, Mr. President, IPS document No. 1420, the affidavit of F. C. Parr, which proves item 9 of the Time Chart, exhibit 1222, the first overt act of hostilities in the Pacific War, and also item 18 of exhibit 1222.

THE PRESIDENT: I assume you are finished with this witness, Brigadier?

BRIGADIER NOLAN: I beg your pardon.

THE PRESIDENT: He is released on the usual terms.

(Whereupon the witness was excused.)

THE PRESIDENT: This document is admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document No. 1420 will receive exhibit No. 1227.

(Whereupon, the document above referred to was marked prosecution's exhibit No. 1227 and received in evidence.)

BRIGADIER NOLAN: I read from exhibit 1227:

"I, FREDERICK CHARLES PARR, British Subject, of 13, The Bund, Shanghai in the Republic of China, MAKE OATH and say as follows:-

"1. I am and at all times material hereto have been a Tide Surveyor of the Chinese Maritime Customs at Shanghai.

"2. I was on duty on the Shanghai Settlement Bund on the night of December 7th and the morning of December 8th, 1941. At 2345 on the night of December 7th, 1941, I saw Japanese personnel dressed in khaki crossing the Garden Bridge over Soochow Creek and running military telephone lines as they went. They ran the wires alongside the Bund garden and along

the Bund pontoons.

"3. As they reached each pontoon the Chinese Maritime Customs' Officers withdrew and the Japanese did not cross the said Bridge in any large party but in small groups, and the Japanese military were accompanied by Japanese gendarmerie.

"4. To the best of my knowledge and belief there was no actual fighting on The Bund and no Allied person was then or there shot or injured. The Chinese who were standing in the neighbourhood, particularly those who were gathered near the Custom House, were herded by the Japanese up the streets leading off The Bund and thus The Bund was cleared of civilians.

"5. The Japanese personnel were armed with small arms but had no armed vehicles and the taking over of The Bund continued until 0300 on December 8th, 1941. Prior to that time Officers of the Chinese Maritime Customs returned to the Custom House and reported that they had been driven from their pontoons by Japanese and one of those Officers reported to me that the launches at the Customs Jetty had been shifted by the Japanese.

"6. At about 0250 on December 8th, 1941, I proceeded to the Jetty for purposes of investigation

and found that the launches had been shifted and that the Customs Jetty had been occupied by Japanese soldiery.

"7. At 0330 on December 8th, 1941, the Customs guard outside the Customs Jetty informed me that a Japanese destroyer had berthed outside the Customs Jetty. I proceeded to the Jetty to investigate this report and was told by the Japanese that I could not enter the Jetty area.

"8. Prior to this and at about 0230 I had heard a noise behind the Custom House. I investigated the cause of this noise which I found to be caused by three howitzers drawn on tractors which must have crossed Szechuen Road bridge and were passing along Szechuen Road to Avenue Edward VII. These guns were mounted at the foot of Avenue Edward VII and pointed towards the river and H.B.M. Gunboat 'Peterel.'

"9. At 0415 I left the Custom House to visit the Customs Jetty and gave orders that the large bronze gates should be closed and also ordered all gates leading into the Custom House to be locked. At 0420 I heard a heavy detonation South of the Custom House which I attributed to the howitzers opening fire. Very soon I saw fire aboard H.M.S. 'Peterel'

and she was soon a mass of flames.

"10. At exactly 0423 the Japanese destroyer at the Customs Jetty opened fire on H.M.S. 'Peterel' with her forward main armament. Almost immediately afterwards Japanese ship IDZUMO opened fire with tracer ammunition.

"11. H.M.S. 'Peterel' was then a mass of flames and was the target for Japanese guns of all calibre, so that it is probable that seamen endeavoring to leave the burning 'Peterel' were subjected to machine gun fire.

"12. Next I telephoned for the Chief Fire Officer of the Chinese Maritime Customs who came to the Custom House at once. He then proceeded to the Customs Jetty but was refused permission by the Japanese to go on board the 'Poochi,' the Customs Fire Float. If he had been allowed to do so, the fire on H.M.S. 'Peterel' might have been dealt with. I also rang up the Harbor Master but was unable to locate him.

"13. Firing was continued by the Japanese till about 0450 on December 8th, 1941, by which time H.M.S. 'Peterel,' which was still burning, was in a sinking condition and was drifting slowly towards the Mackenzie's Wharf where she finally sank.

"14. A Chinese Maritime Customs Officer who was stationed at Kin Lee Yuan Wharf at the material time reported to me later on that a number of British sailors had landed barefooted on Kin Lee Yuan Wharf and had been taken prisoners by the Japanese.

"15. After firing had ceased I observed that the howitzers were withdrawn along Szechuen Road and that the Japanese continued to occupy the Settlement, but there was no more firing.

"16. The U.S.S. 'Wake' was taken down stream at about 0830 on December 8th, 1941, by the Japanese with her crew still aboard.

"ALL of which is true to the best of my knowledge and belief.

"SWORN by the above named FRELERICK CHARLES PARR at H.B.M. Consulate-General at Shanghai in the Republic of China on the 27th day of March, 1946.) /s/ F.C.Parr"

THE PRESIDENT: Mr. Logan.

MR. LOGAN: If the Tribunal please, the defense asks that this witness be produced for cross-examination.

THE PRESIDENT: The Tribunal will consider the application.

BRIGADIER NOLAN: In connection with item

18 of exhibit 1222, being the Time Chart, we now offer in evidence IPS document No. 1421, the affidavit of Edward Austern Irwin Crowder, R.N.V.R., which gives the name of one fatal casualty in the loss of H.M.S. Peterel. Clearly there were many others, but their names cannot be traced with certainty.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document No. 1421 will receive exhibit No. 1228.

(Whereupon, the document above referred to was marked prosecution's exhibit No. 1228 and received in evidence.)

BRIGADIER NOLAN: With the permission of the Tribunal and if there is no objection from counsel for the defense, I will not read this document in its entirety but summarize it for the convenience of the Tribunal. It discloses the names of three casualties of H.M.S. Peterel admitted to the hospital Ste. Marie at Shanghai on 8 December 1941, all suffering from gunshot wounds, and that Engineer James Dunbar, wounded by shrapnel in the left femur, died in that hospital on the 12 December 1941.

THE PRESIDENT: Admitted on the usual terms.

BRIGADIER NOLAN: With your permission, Mr. President, may I go on?

THE PRESIDENT: You may proceed.

CLERK OF THE COURT: Prosecution's document No. --

THE PRESIDENT: I have admitted this affidavit, that is all. I haven't seen any further document to admit.

BRIGADIER NOLAN: We now offer in evidence IPS Document No. 1577, the affidavit of General Percival, which proves items 10, 12 and 20 on exhibit 1222. I might mention that items 10 and 12 on the Time Chart were also dealt with in the evidence of Colonel Wild at pages 5352 to 5355 of the record on the 10th of September last, and that Colonel Wild also proved item 14 of the Time Chart at pages 5355 to 5357 of the record of this Tribunal.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document No. 1577 will receive exhibit No. 1229.

(Whereupon, the document above referred to was marked prosecution's exhibit No. 1229 and received in evidence.)

BRIGADIER NOLAN: I read from exhibit 1229:

"I, Major-General Arthur Ernest Percival, CB, DSO, OBE, MC, of 'Westfield', Westland Green, Little Hadham in the County of Hertford make oath and say as follows:-

"1. From May 1941 until my capture by the Japanese in February 1942 I was General Officer Commanding Malaya.

"2. At about 2345 hours on the 7th December 1941, beach defence troops on the Badang and Sabak

Beaches, the point of junction of which at Kuala Paamat, was about one-and-a-half miles northeast of Kota Bharu Airfield, reported ships anchoring off the coast.

"3. Shortly after this beach artillery opened fire and the Japanese ships started shelling the beaches.

"4. At about 0025 hours on the next day (8th December 1941), the leading Japanese troops landed at the junction of Badang and Sabak Beaches.

"5. By about 0100 hours after heavy fighting they had succeeded in capturing the adjacent pill-boxes, manned by troops of the 3rd/17th Dogras.

"6. The garrison of the pill-boxes during the fighting inflicted very heavy casualties upon the enemy before they were eventually wiped out almost to a man.

"7. At about 0430 hours on the 8th December 1941, a Japanese air formation raided the Singapore Area. It had probably come from French Indo-China, a distance of about 700 miles. The air-raid warning had been sounded, but Singapore was not completely blacked-out when the aircraft arrived.

"8. Bombs were dropped by this formation on the Seletar and Tengah airfields, and in the city area. Damage, however, was slight.

"9. This was the first indication that citizens of Singapore had that war had broken out in the Far East."

Signed: "A. E. Percival, Major General.

"Sworn by the said Arthur Ernest Percival at 6 Baldack Street, Ware in the County of Hertford this 20th day of July 1946."

Before Hugh Gisby, a Commissioner of Oaths.

There are other certificated appended which I will not read.

MR. LOGAN: The defense requests the production of Major General Percival for cross-examination.

THE PRESIDENT: Mr. Logan, were the last two applications for witnesses really serious? We know they have testified to serious matters but is their testimony seriously questioned? Have you any information upon which you could hope to cross-examine with any success? You will be confined in cross-examination to matters arising out of the affidavit in each case.

MR. LOGAN: Our position, your Honor, is this, that the prosecution has deemed the information contained in this affidavit of sufficient importance to prove before this Tribunal.

THE PRESIDENT: That isn't the test. Many essential matters are matters about which no question

could seriously be raised.

MR. LOGAN: Secondly, we have consistently opposed the introduction of evidence of this type through affidavits where no statement is made by the prosecution as to whether or not the witnesses are available. And, thirdly, your Honor, since we just received this affidavit within the last few days we must preserve our rights and we have to investigate to determine whether the statements contained therein are true.

THE PRESIDENT: At present we see no necessity for ordering the attendance of either of the two last deponents, Major General Percival or Frederick Charles Parr.

BRIGADIER NOLAN: We now offer in evidence IPS document No. 1508, the affidavit of Wing Commander Franklin, which proves the names of some of the earliest British casualties to Khota Bharu. There were, as appears from General Percival's affidavit, also Indian casualties on the beach, but their names cannot be identified.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document No. 1508 will receive exhibit No. 1230.

(Whereupon, the document above referred to was marked prosecution's exhibit No. 1230 and

received in evidence.)

BRIGADIER NOLAN: I read from exhibit 1230, being the affidavit of Wing Commander William Harry Franklin, No. 44442, Royal Air Force, late Senior Personnel Staff Officer, Far East Command, who makes oath and says as follows:

"1. The names contained in Paragraph 2 hereof I have extracted from a copy of a report submitted by Wing Commander R. H. Davis, No. 1 Squadron, R.A.A.F. which Squadron was in action at Kota Bahru, Malaya on 8th December 1941, and on which day these casualties occurred. I, as Senior Personnel Staff Officer, Far East Command, would be responsible for the reporting of these casualties by signal to Air Ministry, London, and Air Board, Melbourne, and to the best of my recollection, this was done.

"2. The following officers and N.C.O's of the R.A.A.F. are reported 'Missing, Relieved killed in action' on 8th December, 1941:-

"Flight Lieutenant John Christopher Ramshaw.

"Flight Lieutenant John Graham Leighton Jones.

"Flying Officer Donald Alexander Dowie.

"Flying Officer Ronald Hewitt Siggins.

"Aus. 3382 Sgt. Coldrey Jeffrey Cyril.

"Aus. 407307 Sgt. Walters David Ward.

"Aus. 404294 Sgt. Hedges Graham John.

"Aus. 407309 Sgt. White, Garet Sidney.

"3. I have been informed by the Casualties Staff, Overseas Headquarters, R.A.A.F., London, that Flying Officer Donald Alexander Dowie was subsequently reported Prisoner of War and has now been repatriated to Australia."

"Sworn by the said William Harry Franklin at 29, Queen Anne's Gate in the City of Westminster this sixth day of March 1946.

"Before me: F. G. Fletcher."

Signed: "W. H. Franklin."

We now offer in evidence IPS document No. 1500, an affidavit of the Under-Secretary of State for Foreign Affairs with its exhibit, to show the diplomatic relations of Great Britain and Japan at the time of these attacks.

THE PRESIDENT: Mr. Smith.

MR. SMITH: If your Honor please, we object to this affidavit. It consists entirely of conclusions. It foreswears the issue in this case and determines the very matter that the Court must determine as an ultimate question of fact in this case. We make the further point that the international treaties and conventions referred to are inapplicable in the case of

a war for self-preservation and self-defense.

THE PRESIDENT: I think depondent is obviously speaking from hearsay but that doesn't necessarily exclude his affidavit. I can't say he draws conclusions. I don't think that is a fair interpretation.

Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document will receive exhibit No. 1231.

(Whereupon, the document above referred to was marked prosecution's exhibit No. 1231 and received in evidence.)

BRIGADIER NOLAN: I read from exhibit 1231:

"I, Sir Orme Garton Sargent, K.C.M.B., C.B., Permanent Under-Secretary of State for Foreign Affairs, hereby certify:-

"1. That the Japanese Government did not, before the opening of hostilities by the Japanese forces on December 8th, 1941, against the British territories in South East Asia, have recourse to the good offices or mediation of one or more friendly Powers, for the purpose of effecting a settlement, by peaceful means, as provided for in Article 2 of the Hague Convention of 1899 for the Pacific Settlement of International Disputes, of the differences that existed at December 8th, 1941, between the Japanese Government and the

a war for self-preservation and self-defense.

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"1. That the Japanese Government did not, before the opening of hostilities by the Japanese forces on December 8th, 1941, against the British territories in South East Asia, have recourse to the good offices or mediation of one or more friendly Powers, for the purpose of effecting a settlement, by peaceful means, as provided for in Article 2 of the Hague Convention of 1899 for the Pacific Settlement of International Disputes, of the differences that existed at December 8th, 1941, between the Japanese Government and the

Government of the United Kingdom and of other members of the British Commonwealth of Nations, and that the Japanese Government did not submit or offer to submit these differences to mediation, enquiry, arbitration, or any other method of peaceful settlement referred to in the said Convention, except in so far as may appear from negotiations or discussions which the Japanese Government conducted with the Government of the United States of America.

"2. That the Japanese Governement did not, before the said opening of hostilities on December 8, 1941, deliver to the Government of the United Kingdom or to any representative of that Government, or to the Government of any other member of the British Commonwealth of Nations, any previous explicit warning in the form either of a declaration of war, giving reasons, or of an ultimatum with a conditional declaration of war, in accordance with the provisions of the Hague Convention of 1907 relative to the opening of hostilities. A certified copy of a protest on this point, addressed to the Japanese Charge d'Affaires, dated the 8th December 1941, is annexed to this certificate and marked 'A.'

"3. That the Japanese Government did not, as provided for in the Treaty of 1921 between the

British Empire, France, Japan, and the United States of America, relating to their Insular Possessions and Insular Dominions in the Pacific Ocean, before December 8th, 1941, invite the Government of the United Kingdom to participate with the Governments of the other High Contracting Powers in a joint conference, to which the whole subject of any controversy arising out of any Pacific question and involving the rights of the High Contracting Powers in relation to their insular possessions and insular dominions in the region of the Pacific Ocean could be referred for consideration and adjustment.

"(SEAL)" Signed: "O.G. SARGENT"

"London

"Foreign Office, London, S.W. 1.

"25th March, 1946.

Exhibit A:

"Outfile

"Foreign Office, S.W.1.

"8th December, 1941

"Sir," (this is addressed to Mr. Shinich KAMIMURA)

"On the evening of December 7th His Majesty's Government in the United Kingdom learnt that Japanese forces, without previous warning either in the form of

a declaration of war or of an ultimatum with a conditional declaration of war, had attempted a landing on the coast of Malaya and bombed Singapore and Hong Kong.

"2. In view of these wanton acts of unprovoked aggression, committed in flagrant violation of international law, and particularly of Article 1 of the Third Hague Convention, relative to the opening of hostilities, to which both Japan and the United Kingdom are parties, His Majesty's Ambassador at Tokyo has been instructed to inform the Imperial Japanese Government in the name of His Majesty's Government in the United Kingdom that a state of war exists between the two countries.

"I have the honour to be with high consideration,

"Sir,

"Your obedient Servant,

Signed: "Winston S. Churchill.

"I, Sir Orme Garton Sargent, K.C.M.G., C.B., Permanent Under-Secretary of State for Foreign Affairs, Hereby certify that the foregoing is a true copy of a document preserved in the Archives of the Foreign Office, London."

Signed: "O. G. Sargent.

"London,

"Foreign Office, London, S.W.1.

"25th March, 1946."

MR. SMITH: If your Honor please, this affidavit is chiefly notable for what he omits. We ask that this witness be called for cross-examination.

THE PRESIDENT: The Tribunal sees no reason for calling him.

BRIGADIER NOLAN: The next two witnesses, Mr. President, will be introduced by my colleage, Mr. Fihelly.

THE PRESIDENT: Mr. Fihelly.

MR. FIHELLY: Mr. President, Members of the Tribunal:

Before going into the two documents, I would like to correct in a slight manner exhibit 1194 which was one of the intercepted messages introduced yesterday. Mr. Logan called to our attention that our English copy of that intercepted message has no time translation data at the bottom. We checked with the original intercepted bookand there should appear at the bottom symbol "F Navy Trans. 3 Nov. 1941" and in parenthesis "C-TT." end of parenthesis.

We next offer in evidence Internation Prosecution document 220H which, in conjunction with Mr. Ballantine's evidence, which will follow shortly, will prove items 13, 16 and 17 of the Time Chart, exhibit 1222. Mr. Ballantine will deal fully with the

Japanese document and demonstrate that it does not approach or resemble a declaration of war. Item 15, the attack on Pearl Harbor in the Time Chart, will be fully dealt with in the testimony of Admiral Richardson and partly, also, in the testimony of Mr. Ballantine as to the time.

We offer International Prosecution document No. 220H in evidence.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document No. 220H will receive exhibit No. 1232.

(Whereupon, the document above referred to was marked prosecution's exhibit No. 1232 and received in evidence.)

THE PRESIDENT: Read it after the recess. We will recess for fifteen minutes.

(Whereupon, at 1445, a recess was taken until 1500, after which the proceedings were resumed as follows:)

MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

THE PRESIDENT: Mr. Fihelly.

MR. FIHELLY: We now read from prosecution exhibit 1232:

"Extract from 'Papers relating to the Foreign Relations of the United States. Japan: 1931-1941., Vol. II, pp 786-7

"Memorandum of a Conversation

"('Washington), December 7, 1941

"The Japanese Ambassador asked for an appointment to see the Secretary at 1:00 p.m.; but later telephoned and asked that the appointment be postponed to 1:45 as the Ambassador was not quite ready. The Ambassador and Mr. Kurusu arrived at the Department at 2:05 p.m. and were received by the Secretary at 2:20.

"The Japanese Ambassador stated that he had been instructed to deliver at 1:00 p.m. the document which he handed the Secretary, but that he was sorry that he had been delayed owing to the need of more time to decode the message. The Secretary asked why he had specified one o'clock. The Ambassador replied that he did not know but that that was his instruction. The Secretary said that anyway he was receiving the message at two o'clock. After the Secretary had read

two or three pages he asked the Ambassador whether this document was presented under instructions of the Japanese Government. The Ambassador replied that it was. The Secretary as soon as he had finished reading the document turned to the Japanese Ambassador and said:

"'I must say that in all my conversations with you (the Japanese Ambassador) during the last nine months I have never uttered one word of untruth. This is borne out absolutely by the record. In all my fifty years of public service I have never seen a document that was more crowded with infamous falsehoods and distortions on a scale so huge that I never imagined until today that any Government on this planet was capable of uttering them.'

"The Ambassador and Mr. Kurusu then took their leave without making any comment.

"A copy of the paper which was handed to the Secretary by the Japanese Ambassador is attached.

"J(oseph) W. B(allantine)."

That copy will be treated by Mr. Ballantine.

At the bottom appears a footnote:

"*The Japanese attack on Pearl Harbor, Hawaii, took place on December 7, 1941, at 1:20 p.m., Washington time (7.50 a.m., Honolulu time), which was December 8, 3.20 a.m. Tokyo time. On December 8 at 6 a.m.

Tokyo time (December 7, 4 p.m. Washington time), the Japanese imperial headquarters announced that war began as of 'dawn' on that date."

We next offer in evidence the International Prosecution document 1424, the affidavit of Secretary of State Byrnes, which deals with the diplomatic position of the United States and Japan at the time of the Pearl Harbor attack.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document No. 1424 will receive exhibit No. 1233.

(Whereupon, the document above referred to war marked prosecution's exhibit No. 1233 and received in evidence.)

MR. FIHELLY: I now read prosecution exhibit No. 1233:

"DEPARTMENT OF STATE

"UNITED STATES OF AMERICA

"DISTRICT OF COLUMBIA, TO WIT:

"I, James F. Byrnes, Secretary of State, being first duly sworn, do hereby, according to my best knowledge and belief, make affidavit as follows:

"1. That I am the duly designated and qualified Secretary of State of the United States of America.

"2. That the Japanese Government in 1941 approached this Government with a proposal for an agreement providing for a pacific settlement covering the whole Pacific area, and accordingly conversations were

entered into. Various drafts and counterdrafts of proposals were exchanged, but no reconciliation of views on a number of fundamental points was reached. While the conversations were still in progress the Japanese Government on November 20 presented this Government with an extreme proposal which this Government could not accept. It offered the Japanese Government on November 26 as an alternative a plan of a broad but simple settlement, as a basis for further conversations looking to an agreement. On December 7 the Japanese Government made a reply announcing its intention to break off negotiations, but more than an hour prior to delivery of that reply it attacked without any warning American territory in Hawaii.

"3. That Japan did not on or before December 7, 1941, so far as the Government of the United States is aware, have recourse to the good offices or mediation of any friendly power, or to arbitration of pending questions at issue with the Government of the United States prior to Japan's making an armed attack on the United States.

"4. That the Government of Japan did not on or before the time of the attack on Pearl Harbor deliver to the Government of the United States any previous or explicit warning either in the form of a declaration of

war or an ultimatum with a conditional declaration of war.

"5. That, except as set forth in paragraph numbered two, Japan made no effort to reach a pacific settlement in 1941 of issues on which there were differences between Japan and the United States.

"Given under my hand the official seal of the Department of State this 6th day of April, 1946.

"

James F. Byrnes
Secretary of State

"Suscribed and sworn to before me, a Notary" and date.

THE PRESIDENT: Mr. Smith.

MR. SMITH: If the Court please, at the time the event as sworn to by Mr. Byrnes occurred he was a senator of the United States and occupied no office in the State Department. So, on the general grounds which I so often said, we ask that this witness be called for cross-examination.

THE PRESIDENT: The application is refused.

MR. FIHELLY: Mr. President and Members of the Tribunal, my colleague, Brigadier Nolan, will carry on at this point.

THE PRESIDENT: Brigadier Nolan.

Mr. Logan.

MR. LOGAN: If the Tribunal please, in view of the refusal to call Honorable James F. Byrnes, may we ask that paragraphs 4 and 5 of this affidavit be stricken out as conclusions and, further, that they endeavor to decide issues which are before this Tribunal.

THE PRESIDENT: I suppose you are claiming he is swearing to an issue; a breach of the Geneva Convention of 1907. The Court will consider the application.

BRIGADIER NOLAN: May it please the Tribunal, item 19 on exhibit 1222 has lost much of it's importance in view of the evidence of Colonel Wild as to the

earlier invasion of Siam at Singora and Patani as a means of getting behind the British defenses on the Malayan border, and for the purposes of the record we withdraw item 19 from exhibit 1222.

I now call as a witness to prove Item 21, TATENO, Morio, whose affidavit we will offer to the witness, IPS document No. 2543.

THE PRESIDENT: I understand that item 19 was withdrawn yesterday.

BRIGADIER NOLAN: I did withdraw it, Milord, but it did not go over the radio in Japanese and I was asked to make another statement to that effect.

- - - -

M O R I O T A T E N O , called as a witness on behalf of the prosecution, being first duly sworn, testified through Japanese interpreters as follows:

DIRECT EXAMINATION

BY BRIGADIER NOLAN:

Q What is your full name, please?

A My name is TATENO, Morio.

Q And where do you live?

A I live in Tokyo-to Suginami-ku Koenji 7 Chome 986.

Q And what is your occupation in the month of December, 1941?

A I was then an announcer of the Tokyo Radio Station.

Q I show to you International Prosecution document No. 2543. What is the document which has been handed to you by the Marshal of the Court?

A I cannot understand what you mean very well. This is my affidavit.

BRIGADIER NOLAN: I offer in evidence, Milord, International Prosecution document 2543, being the affidavit of TATENO, Morio, sworn to on the 24th day of July, 1946.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document No. 2543 will be given exhibit No. 1234.

(Whereupon, the document above referred to was marked prosecution's exhibit No. 1234 and received in evidence.)

BRIGADIER NOLAN: I read from exhibit No. 1234:

"I, TATENO, Morio, do swear on my conscience that the following is true:

"I, TATENO, Morio, was on the night of December 7th/8th, 1941, employed as a announcer at Radio Tokyo. My hours on duty that night were from 6:00 p. m. on the 7th to 10:00 a. m. on the 8th of December. During the night, the Chief of the News Section, YOKOYAMA, Shigetou, made an inspection of all personnel on duty and gave us to believe that important news would be given at any moment.

"A few minutes before 7:00 a. m. on December 8, TANAKA, Junnosuke, whose duty it was to receive the news by telephone from the Imperial Headquarters and prepare the script for broadcasting, answered the telephone in my presence. I witnessed his listening on the telephone and writing something down in his own handwriting. What he had written was handed to me as my script with instructions

to broadcast it at 7:00 a. m., December 8th.

"I have listened to Document 1633 and have seen Document 1657, the first of which is a phonograph record, the second of which is the official log of the news broadcast and from these documents have refreshed my memory that the actual time of my broadcast was made at 0700 hours, December 8, 1941, on the wave-length of world pick-up instead of 6:00 a. m. as announced in Document 1633. The statement in my broadcast that Imperial Headquarters had announced the outbreak of hostilities at 6 o'clock that morning is, I believe, untrue and I believe that my broadcast was the first publication of this news. The time of 6:00 a. m. was probably placed on the original draft document of which I received a copy from Mr. TANAKA via the telephone and was merely allowing an hour before the actual broadcast, the script of which was sent to Radio Tokyo a few moments before it was meant to be broadcast.

"Refreshing my memory by listening to Document 1633, I believe the following is a fair translation in English which language I understand sufficiently to read of the script which I read on the radio at 0700 on December 8, 1941. I have noticed that on the actual record the time of my

broadcast is given as 6:00 a. m. This, as I have previously mentioned, is incorrect and the first broadcast of this news was not before 0700 hours. The following is a text in English of my broadcast.

"'We now present you an urgent news. Here's the news. The Army and Navy Sections of Imperial Headquarters jointly announced at 6 o'clock this morning, December 8, that the Imperial Army and Navy forces have entered into a state of hostilities with the American and British forces in the Western Pacific at dawn today. This was the announcement made public by the Army and Navy Sections of the Imperial Headquarters.'

"TATENO, Morio (SEAL)

"Sworn and subscribed to before the undersigned by the above named TATENO, Morio at the Radio Tokyo, this 24th day of July, 1946.

"/s/ John F. Hummel
Major J. A. G. D."

I offer in evidence IPS document No. 1633, a phonograph record of the broadcast which this witness made at 0700 hours on December 8th.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document No. 1633 will be given exhibit No. 1235.

(Whereupon, the document above referred to was marked prosecution's exhibit No. 1235 and received in evidence.)

BRIGADIER NOLAN: We offer in evidence OPS document No. 1633-A, a transcription of the wording of the last mentioned exhibit which was No. 1235.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document No. 1633-A will be given exhibit No. 1235-A.

(Whereupon, the document above referred to was marked prosecution's exhibit No. 1235-A and received in evidence.)

BRIGADIER NOLAN: We offer in evidence IPS document No. 1657, being the official log of the broadcasting section division, news section of Radio Tokyo.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document No. 1657 will be given exhibit No. 1235-B.

(Whereupon, the document above referred to was marked prosecution's exhibit No. 1235-B and received in evidence.)

BRIGADIER NOLAN: We offer in evidence IPS document No. 1657-A, being the official log of news broadcasts of the morning of December 8, 1941.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document No. 1657-A will receive exhibit No. 1235-C.

(Whereupon, the document above referred to was marked prosecution's exhibit No. 1235-C and received in evidence.)

BRIGADIER NOLAN: I now read from exhibit 1235-A: --

THE PRESIDENT: Brigadier Nolan, there may be some confusion in the numbering of the documents. We are not sure.

BRIGADIER NOLAN: Milord.

CLERK OF THE COURT: Prosecution's document No. 1633, to wit, a phongraph record was given exhibit No. 1235. The translation of the record, prosecution's document No. 1633-A was given exhibit No. 1235-A.

THE PRESIDENT: The "A" is missing here.

CLERK OF THE COURT: The radio log on the record of broadcast, being document No. 1657, was

given exhibit No. 1235-B.

THE PRESIDENT: 1235-B, is it not?

CLERK OF THE COURT: Yes, sir.

And the excerpts therefrom, noted as 1657-A, was given exhibit No. 1235-C.

BRIGADIER NOLAN: Reading from exhibit No. 1235-A: --

THE PRESIDENT: I understand that some of the Judges have an exhibit No. 1236-B. Some of my brothers say they have document No. 1657-B. I want to make sure of that.

BRIGADIER NOLAN: May I proceed?

THE PRESIDENT: You may.

BRIGADIER NOLAN: I now read exhibit No. 1235-A:

"1941.

"(1) December 8, 6:00 A. M. News of war outbreak.

"(2) December 8, 11:40 A. M. Attack on Hongkong. 11:50 A. M. Landings on Malay.

"(3) December 8, 1:00 P. M. Air-raid on Hawaii and others.

"Recorded by the Japan Broadcasting Association.

"AK-464

"1 JO-505

"(1) December 8, 5:00 P. M. Air-raid in the Philippines Areas.

"(2) December 8, 9:00 P. M. Air-raid on aerodromes in the Philippines.

(3) December 8, 9:00 P. M. Advance into Thailand (Siam).

"Recorded by the Japan Broadcasting Association.

"AK-464

"2 JO-507.

"'Special news will be announced.'

"'Special news will be announced.'

"Announcement by the Army and Navy Sections of the Imperial General Headquarters, December 8, 6:00 A. M.

"The Imperial Army and Navy entered into a state of war with the American and British forces in the Western Pacific before dawn today, the 8th. It was so announced this morning by the Army and Navy Sections of the Imperial General Headquarters.

"Our forces commanded the attack on Hongkong before daybreak this morning.

"Announcement by the Army and Navy Sections of the Imperial General Headquarters today at 11:40 A. M. As soon as our forces entered a state of war before dawn today, the 8th, our forces lost no opportunity in opening an attack on Hongkong.

"Next:

"Our forces carried out landing operations on the Malayan Peninsula.

"Announcement by the Army and Navy Section of the Imperial General Headquarters at 11:50 A. M. Our forces under close Army-Navy cooperation, carried out a surprise landing operation in the Malay Peninsula area early this morning of the 8th and are now

steadily expanding our battle achievements.

"Announcement by the Navy Section of the Imperial General Headquarters:

"1. The Imperial Navy carried out a determined air-raid against the U. S. Fleet and air forces in the Hawaiian area before dawn today, the 8th.

"2. The Imperial Navy sank the British gunboat, "PETORE" /phonetic/ at Shanghai before daybreak today, the 8th. The U. S. gunboat, 'WAKE,' also surrendered to us at the same time.

"3. The Imperial Navy bombed Singapore before daybreak today, the 8th, reaping huge war successes.

"4. The Imperial Navy bombed enemy military establishments in DAVAO, WAKE and GUAM early this morning, the 8th.

"Announcement by the Army Section of the Imperial General Headquarters issued at 5:00 P. M.

"Our Army Air Force attacked en masse enemy strategic points in the Philippines early this morning of the 8th, inflicting great damages upon them.

"The next is also an announcement made at 5:00 P. M.

"The Army Air Force in the South China Area

also raided enemy air-fields, early this morning of the 8th, north of Hongkong and strafing at low altitudes on this airfield, they set fire to 12 of the 14 planes on this field. We suffered no casualties.

"Our Army and Navy Air Forces reaped huge war successes in the air-raids made in the Philippines.

"Announcement by the Army and Navy Sections of the Imperial General Headquarters at 9:00 P. M.

"Today, the 8th, the Imperial Army and Navy Air Forces in close cooperation raided enemy air forces and principal enemy air fields in the Philippines and 4 planes at IBA /phonetic/ and 50 to 60 planes at CLARK FIELD were shot down. Our casualties were 2 planes. This is the announcement made at 9:00 P. M. by the Army and Navy Sections of the Imperial General Headquarters.

"Announcement by the Army and Navy Sections of the Imperial General Headquarters at 9:00 P. M.

"Under close cooperation, the Imperial Army and Navy commenced friendly advancement into Thailand /Siam/ this afternoon of the 8th. This is an announcement made by the Army and Navy Sections of the Imperial General Headquarters at 9:00 P. M. Regarding the passing of Japanese troops through her country,

Thailand facilitated their passage. This afternoon, at 12:30 P. M., negotiations in regard to this has been concluded between Japan and Thailand and the Imperial Army and Navy commenced friendly advance into Thailand this afternoon."

Goldberg & Spratt

I now read from exhibit No. 1235-C:

"Title - Log of Radio News Broadcasts Given on Dec. 8 (Japanese Time), Japan Broadcasting System.

"Book Title - Broadcasting Division News Section

"Broadcasted at 6:20 a.m. by Announcer UMINO

"Foreign 27

"December 8, 6:20 a.m. broadcast

"Broadcaster Mr. UMINO, Announcer.

"Orders for general mobilization have been issued at HONG KONG

"NEW YORK - DOMEI - very urgent. According to AP telegram from HONG KONG to NEW YORK, it is said that orders for general mobilization have been issued at HONG KONG.

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"East. 2

"BANGKOK, DOMEI -- As the crisis in the FAR EAST grows, GREAT BRITAIN, in trying daily to arouse anti-Japanese feelings in THAILAND through the media of the press and the radio, has become frantic. However, recently, the general public of THAILAND has lost faith in her very malicious propaganda. On the contrary, an anti-British feeling is growing among them.

"That is to say, on the one hand, the BANGKOK

telegram of the 30th, by the REUTER news agency, threatens THAILAND by reporting that 50,000 Australian soldiers have completed preparations for a THAILAND invasion, and on the other hand it fabricated false news against JAPAN, cunningly trying to create an anti-Japanese atmosphere. However, the results were reversed; important officials in the THAILAND government are extremely indignant at such malicious propaganda by GREAT BRITAIN which they considered as being calculated to disturb the strict neutrality of the country.

"Again, in the city of BANGKOK towards the end of last month, rumours were current that the Japanese were freely using yen notes at restaurants and other places. However, in regard to this, a THAILAND radio commentator denied the rumor by saying,

"'Although there is a rumour that the Japanese are using yen notes, an investigation by government authorities revealed that this was utterly false. If yen notes are being used, perhaps a certain country is probably using nationals who look like Japanese in order to arouse anti-Japanese feelings.'

"He thus indirectly hinted at the British false propaganda. Thus, at present, faith in GREAT BRITAIN has suddenly been lost and anti-British feelings

are spreading everywhere like wild-fire. GREAT BRITAIN, being confused by this, is trying every means to alleviate anti-British feelings, and is extremely watchful against the development of THAILAND's pro-Japanese tendency.

"Political 4

"The second Central Joint Conference of the Imperial Rule Assistance Association will fainally meet today for a scheduled 5-day period in the great conference hall on the fourth floor of the headquarters.

"In view of the extreme urgency of the present situation in the Southwest Pacific, the present conference is a regular national meeting for preparedness, which endeavors to concentrate the general will of 100,000,000 people, to unify the entire nation, and to set up a system to overcome national difficulties. Furthermore, the headquarters of the Assistance Association, through these speeches are faced with the policy of elevating the morale of the people to overcome national difficulties, together with the unification of the general will of 100,000,000 people. And since the government is actively endeavoring to express their belief and determinations in regard to the over-coming of national difficulties, and to disseminate the Imperial will to the people, the results of this present

Joint Conference is attracting much attention.

"Today, on the first day of the conference, the opening ceremony is to be held from 9:30 a.m., when Prime Minister TOJO will make a formal address as President of the Assistance Association. At the general meeting which is to be opened at 10, Foreign Minister TOGO and Navy Minister SHIMADA is scheduled to request that they be allowed to express their respective opinions in order to stir up the people. Next, from 11:20 a.m., each representative will make a speech. Today, the discussions will be on the subjects: Part I, the elevation of the national morale and the establishment of a national belief in the promotion of Asia, and Part II, the establishment of a system for national mobilization. After their conclusion, the conference is scheduled to adjourn at 5:00 p.m. Now, on the on hand, President TOJO's address at the opening ceremony will be relayed from the Assistance Association conference hall at 9:30 a.m. together with the account of the opening ceremony, and the speeches of each Minister of State will be recorded and broadcast with the NEWS broadcast. On the other hand, the speeches of the members at the Join Conference will be recorded if deemed fit and broadcast from 8:15 tonight.

"East 4

"PEKING - DOMEI -- Colonel William ASHERST,

the commander of the U. S. Marines stationed in PEKING, and 119 men will finally make a general withdrawal. Day after tomorrow, the 10th, the first party consisting of 40 men, and on the 12th, the second party consisting of 80, will take special trains leaving from CHENMEN Station of Peking for CHINGHUANGTAO. There, the party, together with 58 men who had previously withdrawn from TIENTSIN, is scheduled to leave for MANILA via SHANGHAI.

"Foreign 26

"BERLIN - DOMEI -- The German Headquarters yesterday announced as follows:

"The Soviet forces on the outskirts of LENINGRAD attempted to break through German positions with the co-operation of tanks and fighter planes, but met with failure by German counter-attack. German bombardment of Leningrad's vital military installations were also continued yesterday.

"German mine-sweepers fought a heroic sea battle with the English mosquito fleet in the English channel, sinking one, and seriously damaging another.

TATENO DIRECT

"Off the coast of CYRENAICA a German submarine sighted an English convoy, seriously damaging one transport ship and one merchantman.

"German airforces executed a night bombardment of English airbases on Malta, night before last, and destroyed hangers and barracks.

"In the week of November 29 to December 5, the Soviet airforces lost 228 planes, 139 of which were lost in air combats.

"The German Headquarters have made such an announcement.

"HELSINKI-DOMEI -- The Finnish Headquarters announced night before last that Finnish forces fighting in eastern Karelia captured KALMYK, a strategic point on the MURMANSK railway north of Lake Onega, and besieged and annihilated Soviet forces in that area.

"Special News

7:00 and 7;18 a.m. broadcast

Broadcaster - Announcer TATENO

Announcement by the Army and navy Sections of the Imperial General Headquarters, 6:00 a.m., December 8.

"The Imperial Army and Navy entered a state of war with the armed forces of the U.S.A. and GREAT

BRITAIN in the west Pacific before dawn today, the 8th.

"This morning the Imperial General Headquarters announced to the above effect. Since important news may follow, we request all listeners not to switch off their radios.

"Special news

"7:41 and 8:30 a.m. broadcasts

Broadcaster - Announcer TATENO

"Special News

"December 8 (Monday)

7:41 and 8:30 a.m. broadcast

"As already reported in Special news and Regular News broadcasts, the Imperial Army and Navy entered a state of war with the armed forces of the U.S.A. and Great Britain in the west Pacific before dawn today.

"Next, announcement by the Army and Navy Sections of the Imperial General Headquarters at 6:00 a.m. this morning:

"The Imperial Army and Navy entered a state of war with the armed forces of the U.S.A. and Great Britain in the west Pacific.

"The Army and Navy Sections of the Imperial General Headquarters made announcements to the above

effect.

"Since our forces opened hostilities against the armed forces of both America and Great Britain in the west Pacific before dawn this morning, the Government held an emergency Cabinet meeting at 7 a.m. today at the official residence of the Prime Minister, attended by Prime Minister TOJO and all other ministers of State excepting Foreign Minister TOGO. In the beginning, Navy Minister SHIMADA gave a report of the process of the battle with the armed forces of the U.S. and Great Britain and based on this report, the Government decided on the policy to be adopted. The meeting was adjourned at 7:20.

"December 8 (Monday)

"Foreign 6

"Next, news gathered up to now will be assembled and announced.

"WASHINGTON - Domei -- Ambassadors NOMURA and KURUSU visited the State Department at 2:20 p.m. of the 7th or 4:20 a.m. of the 8th, Japanese time, and handed Japan's reply to Secretary of State HULL.

"At 7:30 this morning, Foreign Minister TOGO summoned American Ambassador GREW to his official residence, and handed him the same formal reply of Japan as was handed to Secretary of State HULL in

WASHINGTON. Then, at 7:45 a.m. he summoned British Ambassador CRAIGIE and explained to him the substance of this reply.

"December 8 (Monday)

"Foreign 3

"According to a Washington dispatch by Domei, Secretary of State HULL told Ambassadors NOMURA and KURUSU who visited the State Department on the 7th, JAPAN's reply to my note is unsatisfactory.

"December 8 (Monday)

"Foreign 4

"NEW YORK - Domei -- According to an U.P. telegram that reached NEW YORK from PANAMA, the PANAMA, Government has issued an order for the arrest of all Japanese residents in PANAMA.

"December 8 (Monday)

"Foreign 1

"President ROOSEVELT has ordered the U.S. Army and Navy into action.

"WASHINGTON - Domei - very urgent -- President ROOSEVELT ordered the U.S. Army and Navy to immediately execute the already prepared order for action.

"December 8 (Monday)

"Foreign 2

"WASHINGTON - Domei - very urgent. -- Setting

the date as of the 8th, U. S. Secretary of War STIMSON announced, in the afternoon of the 7th, that he had issued an order for general mobilization to the entire U. S. Army.

"December 8 (Monday)

"Foreign 5

"President ROOSEVELT summoned an emergency Cabinet meeting.

"WASHINGTON - Domei -- President ROOSEVELT summoned an emergency Cabinet meeting at 8:30 p.m. of the 7th.

"After the closing of the Cabinet meeting, President Roosevelt is expected to confer with Congressional leaders of the Democratic and the Republican parties.

"December 8 (monday)

"Foreign 27.

"An Order for General Mobilization has been issued in HONG KONG.

"NEW YORK - Domei. -- very urgent.

"According to an AP telegram from HONGKONG which reached NEW York, an order for general mobilization has been issued in HONGKONG."

I will omit the reading of the usual certificate.

That is all I have to ask the witness, Mr. President.

THE PRESIDENT: Dr. KIYOSE.

CROSS-EXAMINATION

BY DR. KIYOSE (Continued):

Q I ask the witness concerning the announcement of the news. Does announcement of news means it was announced by the Army and Navy Section of the Imperial General Headquarters?

A The time at which the news is announced either at or by the Imperial Headquarters is to be taken as the time of announcement of the Imperial news.

THE INTERPRETER: Correction to previous question: I am asking you concerning the time of the announcement. Was not the time of the announcement the time which was announced by Army and Navy Section of Imperial General Headquarters?

Q I believe that it requires some time to take the announcement to the broadcasting station after the Imperial General Headquarters announced it, is that so?

A Yes.

Q Then I believe that if you received the news at seven, seven would not be the time when the news was announced, is that correct?

A It was customary to indicate time of release, time of the news with respect to the news released by either Army or the Navy.

Q I cannot understand. Your answer is not very clear. What I am questioning you is this: The time that you received the announcement, the press release is not actually the time the press release was made, and the time when the press release is actually made is the time when Imperial General Headquarters gathered members of the press and read the announcement to them, is that not so?

A It is so in ordinary cases, but, as I told you before, it sometimes so happens that time of announcement is indicated beforehand by the Army or the Navy.

THE MONITOR: When it concerns the Army news, the time the news is said to be announced by the Army is -- we are told by the Army what time to say the Army released such and such a news.

Q That was also a question on which I intended to ask you, but I shall pass to another question,

which is this: Since you received the announcement at seven o'clock, and since it takes some time to receive an announcement at the broadcasting station after such announcement is actually made, does it not follow that the announcement was not made at seven o'clock?

THE MONITOR: Slight correction: When you receive the news from the Army General Headquarters, the time that you received may be seven o'clock, but the fact that a slight lapse of time takes place after you receive it and when it is announced, is it not true that seven o'clock in that case cannot be considered the release time?

A It requires only a few minutes for the news item to reach us from Imperial Headquarters. Therefore, in ordinary cases, we would have announced it as a news item released at six o'clock -- seven o'clock. However, in this particular case, it was indicated specifically that this news item was to be released to be read to have been released at six o'clock instead of seven.

Q. I may be repeating myself, but since in your affidavit you say that you received orders to broadcast this at seven o'clock, it must follow that you received the announcement itself before seven, even

if it was only a few minutes before?

A As it is stated in my affidavit, I received the telegram call -- rather we received a telephone call from the Imperial Headquarters several minutes before seven. We received a telephone call at the Press Section -- from the Press Section of Imperial Headquarters several minutes before seven.

Q Then when you say that it is true that the announcement was broadcast at seven o'clock, but that the rest is incorrect, that is also somewhat -- that is not a correct statement, is that not so?

THE PRESIDENT: In view of the fact that the actual attack on Pearl Harbor took place hours before, we fail to see the real significance of this cross-examination.

DR. KIYOSE: Mr. President, I am questioning him on this because I believe that we Japanese heard the announcement somewhat earlier than seven, and I do not believe that the Army would deliberately tell a lie. However, I shall pass to my next question.

THE PRESIDENT: What is the difference between six and seven for this purpose?

DR. KIYOSE: It would appear this witness' testimony would give the impression that when he made his announcement at seven, he was told to tell

the world that the announcement was actually made at six o'clock; that is to say, as if the Army had deliberately instructed him to tell a lie, and I believe that for the Army, this is an important matter.

THE PRESIDENT: Well, it is nearly four o'clock. We will adjourn now until half-past nine on Monday morning.

(Whereupon, at 1557, an adjournment was taken until Monday, 18 November 1946, at 0930.)

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